

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**HOWARD M. KERSTINE**

Plaintiff

**VS.**

**NINE WEST GROUP, INC.**  
**JONES APPAREL GROUP**

## Defendants

**CASE NO. C-1-02-080**

Judge Weber

# PLAINTIFF'S MOTION TO WAIVE APPEARANCE OF PLAINTIFF AT PRETRIAL

Now comes Plaintiff requesting that he be permitted to attend the Pretrial Conference by Speaker Phone and waive personal appearance.

Respectfully submitted,

s/Paul H. Tobias  
Paul H. Tobias – 0032415  
David D. Kammer - 0061808  
Tobias, Kraus & Torchia  
414 Walnut Street  
Suite 911  
Cincinnati, Ohio 45202  
(513) 241-8137  
(513) 241-7863 (fax)  
Attorneys for Plaintiff

Plaintiff lives in Prescott, Arizona. Travel to the Pretrial Conference would be expensive and difficult. Plaintiff can make himself available by telephone and attend by calling in on speaker phone. Plaintiff's counsel has settlement authority and would be in telephone communication with Plaintiff at the Pretrial.

Respectfully submitted,

s/Paul H. Tobias  
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David D. Kammer - 0061808  
Tobias, Kraus & Torchia  
414 Walnut Street  
Suite 911  
Cincinnati, Ohio 45202  
(513) 241-8137  
(513) 241-7863 (fax)  
Attorneys for Plaintiff

I hereby certify that on November 28, 2003, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will automatically serve Gary L. Greenberg, Esq., Denlinger, Rosenthal & Greenberg, 2310 Firststar Tower, 425 Walnut Street, Cincinnati, Ohio 45202 and I hereby certify that I have mailed by U.S. Postal Service the document to the following non CM/ECF participant: Conrad S. Kee, Esq., Jackson, Lewis Schnitzler & Krupman, 177 Broad Street, P.O. Box 251, Stamford, Connecticut 06904-0251 by ordinary U.S. Mail this 28th day of November, 2003.

s/ Paul H. Tobias  
Paul H. Tobias—0032415